

AO 245B (CASD) (Rev. 4/14) Judgment in a Criminal Case
Sheet 1

FILED

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

John Joseph Rufing -1

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

DEPUTY

Case Number: 16-cr-00961-JAH-1

Paul Allen Barr Federal Defenders

Defendant's Attorney

REGISTRATION NO. 55809298

☐

THE DEFENDANT:

☒ pleaded guilty to count(s) One of the Information.☐

was found guilty on count(s) _____

after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Count Number(s)</u>
18:2252(a)(4)(B)	Possession of Images of Minors Engaged in Sexually Explicit Conduct	1

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____☐ Count(s) _____is ☐ are ☐ dismissed on the motion of the United States.☒ Assessment: \$100.00.☒ No fine☐ Forfeiture pursuant to order filed signed 11/8/16, included herein.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

November 8, 2016

Date of Imposition of Sentence

HON. JOHN A. HOUSTON

UNITED STATES DISTRICT JUDGE

16-cr-00961-JAH-1

DEFENDANT: John Joseph Rufing -1

CASE NUMBER: 16-cr-00961-JAH-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of Fifteen months.

☐ Sentence imposed pursuant to Title 8 USC Section 1326(b).

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends custody be served at FCI Terminal Island or San Diego, CA.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____ .

as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 12/5/16 @ 2:00 PM.

☒ as notified by the United States Marshal.

☒ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____

DEPUTY UNITED STATES MARSHAL

DEFENDANT: John Joseph Rufing -1
CASE NUMBER: 16-cr-00961-JAH-1

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :
Seven years.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

For offenses committed on or after September 13, 1994:

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than 4 drug tests per month during the term of supervision, unless otherwise ordered by court.

- ☒ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ☒ The defendant shall cooperate in the collection of a DNA sample from the defendant, pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000, pursuant to 18 USC sections 3563(a)(7) and 3583(d).
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. (Check if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution obligation, it is a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in this judgment.

The defendant must comply with the standard conditions that have been adopted by this court. The defendant shall also comply with any special conditions imposed.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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Continued 2 — Supervised Release

Judgment—Page 4 of 4

Defendant: RUFING, John Joseph
CASE NUMBER: 16-cr-00961-JAH-1

SPECIAL CONDITIONS OF SUPERVISION

1. Submit your person, property, residence, abode, vehicle, papers, computer and any other electronic communications or data storage devices or media, and effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of probation/supervised release or unlawful conduct, and otherwise in the lawful discharge of the officer's duties. 18 U.S.C. §§ 3563 (b)(23); 3583 (d)(3).
2. Consent to third party disclosure to any employer, potential employer, concerning any restrictions that are imposed by the court.
3. Not use or possess devices which can communicate data via modem or dedicated connection and may not have access to the Internet without prior approval from the court or the probation officer. The offender shall, in the event that you receive approval from your probation officer, consent to the installation of systems that will enable the probation officer to monitor computer use on any computer owned or controlled by the offender. The offender shall pay for the cost of installation of the computer software.
4. Not associate with, or have any contact with any known sex offenders unless in an approved treatment and/or counseling setting.
5. Not have contact with any child under the age of 18, unless in the presence of a supervising adult (who is aware of the defendant's deviant sexual behavior and conviction), and with prior approval of the probation officer.
6. Not possess any materials such as videos, magazines, photographs, computer images or other matter that depicts "sexually explicit conduct" involving children, as defined by 18 U.S.C. § 2256(2); and not patronize any place where such materials or entertainment are the primary material available.
7. Complete a sex offender evaluation, which may include periodic psychological, physiological testing, and completion of the ABEL assessment, at the direction of the court or probation officer; and that the offender participate and successfully complete an approved state-certified sex offender treatment program, including compliance with treatment requirements of the program. The offender will allow reciprocal release of information between the probation officer and the treatment provider. The offender may also be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on ability to pay.
8. Polygraph examinations may be used following completion of the formal treatment program as directed by the probation officer in order to monitor adherence to the goals and objectives of treatment as part of the continuing containment model involved in such therapy.
9. You shall notify the probation officer of any change of address.
10. Be subject to home confinement for a period of 12 months after you are released from custody. You are to remain in your home at all times except for employment, religious activity or medical circumstances.
11. Perform 100 hours of community service in the first two years of supervised release. And that community service, again, has to be other than equestrian related or make a wish. The community service is to be determined by the probation officer.
12. Comply with the conditions of the Home Confinement Program for a period of 12 months and remain at your residence except for activities or employment as approved by the court or probation officer. Wear an electronic monitoring device and follow procedures specified by the probation officer. Pay 50% of the total cost of electronic monitoring services.

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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 JOHN JOSEPH RUFING,

14 Defendant.

Case No. 16-CR-0961-JAH

PRELIMINARY ORDER OF
CRIMINAL FORFEITURE

15
16 WHEREAS, in the Plea Agreement in the above-captioned case, the parties
17 agreed to forfeiture to the United States of all property of the above-named
18 Defendant, JOHN JOSEPH RUFING ("Defendant") that constituted visual depictions
19 as described in § 2252, all property constituting proceeds of the offense, and all
20 property used or intended to be used to commit or to promote the commission of the
21 offense set forth in Count 1 of the Information which charged a violation of
22 18 U.S.C. § 2252(a)(4)(B), and forfeitable pursuant to 18 U.S.C. § 2253, as charged
23 in the Information; and

24 WHEREAS, on or about July 5, 2016, Defendant pled guilty before Magistrate
25 Judge Jan M. Adler to Count 1 of the Information, which plea included consent to the
26 forfeiture of all property seized in connection with the case, including forfeiture of all
27 visual depictions as described in § 2252, all property constituting proceeds of the

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1 offense, and all property used or intended to be used to commit or to promote the
2 commission, including forfeiture of the following:

3 (1) computer images and printed images determined by law
4 enforcement to depict minors engaging in sexually explicit
conduct and

5 (2) any computers or media that contained such images described
6 above which were seized by law enforcement during the
investigation of the offenses to which the Defendant is pleading
7 guilty, including:

8 (a) One (1) HP Laptop, SIN: CNU03853XX, with power cord;
9 (b) One (1) HP Laptop, SIN: CND9151 RW8, with power cord;
and

10 WHEREAS, on August 23, 2016 this Court accepted the guilty plea of
11 Defendant; and

12 WHEREAS, by virtue of the facts set forth in the plea agreement, the
13 United States has established the requisite nexus between the forfeited properties and
14 the offense and the Court hereby orders the forfeiture to the United States of the
15 described forfeited properties pursuant to Title 18, United States Code, Section 2253;
16 and

17 WHEREAS, by virtue of said guilty plea, the United States is now entitled to
18 possession of the above-referenced properties, pursuant to 18 U.S.C. § 2253 and Rule
19 32.2(b) of the Federal Rules of Criminal Procedure; and

20 WHEREAS, pursuant to Rule 32.2(b), the United States having requested the
21 authority to take custody of the above-referenced properties which are hereby found
22 forfeitable by the Court; and

23 WHEREAS, the United States, having submitted the Order herein to the
24 Defendant through his attorney of record, to review, and no objections having been
25 received;

26 Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

27 1. Based upon the guilty plea of the Defendant, the United States is hereby
28 authorized to take custody and control of the following assets, and all right, title and

1 interest of Defendant JOHN JOSEPH RUFING in the following properties are hereby
2 forfeited to the United States for disposition in accordance with the law, subject to
3 the provisions of 21 U.S.C. § 853(n):

4 (1) computer images and printed images determined by law
5 enforcement to depict minors engaging in sexually explicit
conduct and

6 (2) any computers or media that contained such images described
7 above which were seized by law enforcement during the
8 investigation of the offenses to which the Defendant is pleading
guilty, including:

9 (a) One (1) HP Laptop, SIN: CNU03853XX, with power cord;
10 (b) One (1) HP Laptop, SIN: CND9151 RW8, with power cord.

11 2. The aforementioned forfeited assets are to be held by the United States
12 Federal Bureau of Investigation in its secure custody and control.

13 3. Pursuant to Rule 32.2(b) and (c), the United States is hereby authorized
14 to begin proceedings consistent with any statutory requirements pertaining to
15 ancillary hearings and rights of third parties. The Court shall conduct ancillary
16 proceedings as the Court deems appropriate only upon the receipt of timely third
17 party petitions filed with the Court and served upon the United States. The Court
18 may determine any petition without the need for further hearings upon the receipt of
19 the Government's response to any petition. The Court may enter an amended order
20 without further notice to the parties.

21 4. Pursuant to the Attorney General's authority under Section 853(n)(1) of
22 Title 21, United States Code, Rule 32.2(b)(6), Fed. R. Crim. P., and Rule G(4) of the
23 Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions,
24 the United States forthwith shall publish for thirty (30) consecutive days on the
25 Government's forfeiture website, www.forfeiture.gov, notice of this Order, notice of
26 the United States' intent to dispose of the properties in such manner as the Attorney
27 General may direct, and notice that any person, other than the Defendant, having or
28 claiming a legal interest in the above-listed forfeited properties must file a petition

1 with the Court within thirty (30) days of the final publication of notice or of receipt of
2 actual notice, whichever is earlier.

3 5. This notice shall state that the petition shall be for a hearing to
4 adjudicate the validity of the petitioner's alleged interest in the property, shall be
5 signed by the petitioner under penalty of perjury, and shall set forth the nature and
6 extent of the petitioner's right, title or interest in the forfeited property and any
7 additional facts supporting the petitioner's claim and the relief sought.

8 6. The United States may also, to the extent practicable, provide direct
9 written notice to any person known to have alleged an interest in the properties that
10 are the subject of the Preliminary Order of Criminal Forfeiture, as a substitute for
11 published notice as to those persons so notified.

12 7. Upon adjudication of all third-party interests, this Court will enter an
13 Amended Order of Forfeiture pursuant to 21 U.S.C. § 853(n) as to the
14 aforementioned assets, in which all interests will be addressed.

15 8. Pursuant to Rule 32.2(b)(4), this Order of Forfeiture shall be made final
16 as to the Defendant at the time of sentencing and is part of the sentence and included
17 in the judgment.

18 DATED: November 8, 2016

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20 _____
21 JOHN A. HOUSTON, Judge
22 United States District Court
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